

# Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: SUMMER 2021



## Congratulations to Radu Catrina

Radu became a member of the Berry Family Law team in early 2019. This year he met the criteria for and then applied to the Law Institute of Victoria to be recognised and accredited as a Family Law Specialist.

His successful accreditation was confirmed on 8 November 2021.

Before applying for specialist accreditation, a lawyer must prove they have a minimum of five years experience in family law. Their application must be seconded by referees of recognised competence and impeccable reputation.

Once an application is accepted, the Law Institute of Victoria requires the applicant to complete a rigorous accreditation process.

This involves passing:

- A three hour written exam;
- A completed mock file for a complicated and detailed fact matrix including the preparation of advice letters and court documents; and
- A difficult client interview.

More than half of all applicants for accreditation fail. The process is intended to ensure that only the best eligible lawyers receive accreditation.

Radu's success is a credit to him and he joins the ranks of our team of well regarded and specialist family lawyers.

## Farewell to Heather Cook

After a number of years working as General Manager at Berry Family Law, Heather Cook has decided to retire at the end of this year. Her position will be filled by our capable Accounts Manager, Christopher Leatham.

Heather is looking forward to spending more time on her many hobbies including drawing, gardening and golf.

We wish her well and know that if we need a helping hand in the future she will be ready, willing and able!



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# 6 ways to keep your separation amicable

The separation process is the target of much commentary and many people consider it to be long, expensive and difficult for couples to navigate.

One difficulty is where a person desires fast and amicable finalization and the other wants to fight at every opportunity.

These are some strategies that can keep things on the path to a better resolution.

## Understand what matters to you early on

Taking time to reflect on the things that matter can be an invaluable first step.

It's always tempting to go into a separation process with a list of outcomes that you "must" have, but doing so is often the path towards a fight.

Over time that fight will inevitably sharpen your attention on the things that really matter to you. Rather than letting those realizations come at a high personal and financial cost, having a good appreciation early on of the outcomes that matter most is a good place to start.

This is where the traditional methods of lawyers exchanging long lists of demands and positions aren't always ideal from a psychological point of view.

If I want A, B, C and D and your lawyers respond with "Our client rejects A, B, C and D" then by listing those and inviting a response you've created an immediate polarization of positions.

That polarization is going to flow through to other aspects of the negotiations and the entire process. It will also make it more difficult to agree on things that could have been agreed.

Rather than assuming the best way to reach an outcome is to draw a long list of requirements and then correspond back and forth, it's worth considering deferring the contentious items until later.

No deal is done until it's done. Giving up your desire to A might mean you're less

prepared to give up B. However, if you can avoid early polarization you can set the tone for a more positive approach.

## Understand sales

Do you know why door to door sales people ask you polite questions first? It's not because they enjoy making small talk but because they can ask you questions like "nice day isn't it?" and get you to answer "yes". Then they know it's more likely that you will be psychologically positioned to say "yes" to more things.

Each yes leads to another greater amount of pressure to say yes.

This is the opposite principle of the polarization mentioned above. The more times you say yes early on leads to a more likely future response of yes which leads to you being far closer to a resolution. So it's worthwhile to get some quick positive responses.

## Respond, don't react

There are times where your ex, or their lawyer, is going to say something or ask for something or make a demand that's going to blow your mind.

But firing off some quick instructions or a hasty response won't necessarily keep you on your path towards a swift settlement. Take some time. Remember what matters to you. And then consider the best response.

## Don't dig your heels in ... most of the time

There are some topics on which you will probably be non-negotiable.

Provided you have figured them out upfront, and they are a fixed decision, that's fine. However, experience tells us that most negotiating positions aren't as non-negotiable as they might sound at first.

The problem is that the moment you agree to negotiate on any position you've said was non-negotiable, you've immediately undermined any future occasion on which you are genuinely non-negotiable.

## Wise time demands and discussions

It can be tempting to get things to a roundtable discussion or mediation very early on.

After all, if the matter is likely to resolve at mediation, why not hold the mediation earlier?

The reason is that sometimes people aren't ready for the resolution. Perhaps things are too emotional, perhaps they are still in the "take it all the way to Court" mindset.

A mediation that fails in month 1 might easily have succeeded in month 3 – simply because more time has passed and everybody is in a better place mentally and emotionally to actively seek a negotiated outcome and move on with their lives.

## Be honest with yourself, and with your lawyer

Telling yourself (and instructing your lawyer) about what you want out of your separation is only half the picture.

One of the things that can help us, and you, to figure out how best to negotiate an outcome is to have an understanding about why something matters to you.

If the small wooden clock is a hot item because it belonged to your deceased grandfather who you loved, that's relevant for us to know.

So be honest with us, and we'll do our best to help you along the way.

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